Supreme Court, U.S.
FILED
NOV 22 1994
OFFICE OF THE CLERK

NO.: 94-657

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1994

ROBERT LEE ZIMMERMAN,

PETITIONER

v.

BISHOP ESTATE, ET AL,

RESPONDANTS

ON PETITION FOR A WRIT OF CERTIORARI
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

PETITIONER'S REPLY BRIEF TO PETITION FOR WRIT OF CERTIORARI

Robert Lee Zimmerman
PRO SE
1830 Avenida Del Mundo #1702
Coronado, California 92118
(619)-435-2351

13 pp

TABLE OF CONTENTS

Page

INTRODUCTION.....1

OWNERSHIP ISSUE.....1

PRIVACY ISSUE.....5

MATLOCK PERMISSION ISSUE.....8

EVIDENCE OF OWNERSHIP ISSUE..9

TABLE OF AUTHORITIES

Cases Page

Amezquita v. Hernandez-Colon, 518 F.2d 8 (1st Cir. 1975), cert. denied, 424 U.S. 916 (1976).....5

United States v. Matlock, 415 U.S. 164 (1974).....8

PETITIONER'S REPLY BRIEF TO RESPONDANT'S OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

INTRODUCTION

City Respondants have failed to respond to the Petition.

Private Respondant's Opposition consists of a whitewashed version of the facts, artfully crafted by attorneys for Respondants and several supporting, but, inapposite cases.

THE OWNERSHIP ISSUE

In the closing paragraph or their Opposition Brief (page 6), Respondants contend that ownership was not disputed, when, as below, ownership has been vigorously and variously disputed. Respondant's

Opposition attempts to conceal the following important information:

1. The undisputed fact that the violations of Petitioner's Fourth Amendment rights occurred on November 1, 1988, over a year prior to the ejectment order and over two years after the Kane family had taken up residence on the property.

2. The undisputed fact that the Kane family did vigorously dispute Bishop Estate's claim to ownership of the property both before the filing of the ejectment lawsuit and during its litigation.

3. The undisputed fact that the ejectment lawsuit was not commenced until well after the

seizures and arrests on November 1, 1988.

4. The undisputed fact that Respondant had failed to evict the Kane family in an earlier lawsuit, a lawsuit that was ongoing at the very time of the arrests.

5. The undisputed fact that Respondant could not prevail with their summary dispossession because they could not provide the court with satisfactory proof of ownership.

6. The undisputed fact that the order ejecting the Kane's from the property was issued long after the arrests, and only because the Kane family defaulted.

7. The undisputed fact that the prior occupants of the property, upon abandoning it, granted the Kane's permission to reside there.

8. The undisputed fact that, except for persons seeking refuge, the property had appeared vacant since Mrs. Kane's childhood.

9. The undisputed fact that Respondants have produced nothing proving ownership.

10. The undisputed fact that Respondants had previously combined their enormous wealth and influence with devious tactics to deprive native Hawaiians of their legacy and that Mrs. Kane's mother, by

virtue of inheritance, claims ownership.

11. The undisputed fact that Respondants acquiesced to Petitioner's presence.

12. The undisputed fact that the Kane family continued to reside on the property after the warrantless searches, seizures, arrests and without interference.

THE PRIVACY ISSUE

Respondant's sparse legal argumentation to justify bribing a police officer to facilitiate an unauthorized eviction by means of intimidation and direct violence is inapposite. Their central case, Amezquita v. Hernandez-Colon, 518 F.2d 8 (1st Cir. 1975), cert.

denied, 424 U.S. 916 (1976), deals strictly with the destruction of homes erected by squatters on property they knew was owned by others. This case is entirely different. Here ownership is vigorously disputed: The issue is not just the destruction of a home but rather the warrantless invasion of a home by ten armed police officers to effectuate an unauthorized eviction by means of threats, violence, search, seizure, arrest and imprisonment.

Surely, the summary dispossess lawsuit that was brought against the Kane family by the private Respondant's, ongoing when the break-in occurred and which

ultimately failed, and the undisputed facts including the Kane family's long-term residency on the property, their vast improvements to the property, their receipt of permission from the prior long-term occupants of the property to take up residency there, their receipt of mail and notices of the Bishop Estate's summary dispossess proceeding at the property, and their dispute of Respondant's claim to ownership of the property afforded both the Kane family and their guests, including Petitioner, as their guest, an expectation of privacy that was both objectively and subjectively reasonable.

THE MATLOCK PERMISSION ISSUE

Respondant's claim that their bribing of a police officer with one year's free use of the disputed property in return for his efforts to effectuate an unauthorized eviction of the Kane family is somehow legitimized by United States v. Matlock, 415 U.S. 164 (1974) is both inapposite and preposterous. Matlock, provides for the warrantless entry to a home by police for purposes of effecuating a search of the common areas by a co-occupant of the home. Matlock, does not provide for an unauthorized and unwarranted police break-in to a home for the purposes of intimidation, search, seizure,

arrest and imprisonment of the occupants and their guests as a means to effectuate an legally unauthorized eviction, and this is most especially the case when, as here, disposses proceedings are ongoing and inconclusive, and the third party is not a co-occupant of the home, has never entered the home and is operating with other police officers to realize personal gain, in this case the free use of the property for one year.

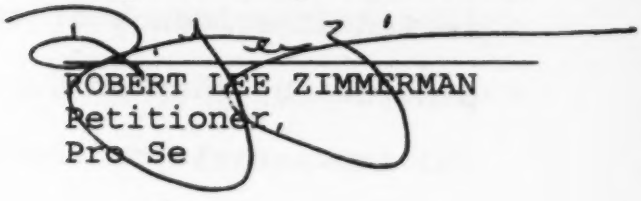
THE EVIDENCE OF OWNERSHIP ISSUE

On page 6 of their Opposition Respondants suggest that the police relied on evidence of ownership provided by them as justification for the assault on the Kane family

home. But no such evidence was ever presented by Respondants, no such evidence was shown to Petitioner on or before the assault and even if there was such evidence it would not justify the assault. Police officer Bertulfo, the very police officer who assembled the assault squad and was to receive free use of the property for one year, admitted that he knew that the Kane family were long-term residents while Officer Bertulfo had never set foot on it.

DATED: Coronado, California,
November 22, 1994.

Respectfully submitted,



ROBERT LEE ZIMMERMAN
Petitioner,
Pro Se